

§41.24

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(3) Includes the certifications required by §41.22;

(4) Includes a certification that the terms and conditions of the contract comply with the additional conditions for trading of §41.25;

(5) If the board of trade is a designated contract market pursuant to section 5 of the Act, it includes a certification that the security futures product complies with the Act and rules thereunder; and

(6) Includes a copy of the submission cover sheet in accordance with the instructions in appendix D of part 40.

(7) Includes a request for confidential treatment as permitted under the procedures of §40.8.

(b) *Voluntary submission of security futures products for Commission approval.* A designated contract market may request that the Commission approve any security futures product under the procedures of §40.5 of this chapter, *provided however*, that the registered entity shall include the certification required by §41.22 with its submission under §40.5 of this chapter. Notice designated contract markets may not request Commission approval of security futures products.

[66 FR 55083, Nov. 1, 2001, as amended at 69 FR 67507, Nov. 18, 2004; 74 FR 17394, Apr. 15, 2009; 77 FR 66344, Nov. 2, 2012]

§41.24 Rule amendments to security futures products.

(a) *Self-certification of rules and rule amendments by designated contract markets and registered derivatives clearing organizations.* A designated contract market or registered derivatives clearing organization may implement any new rule or rule amendment relating to a security futures product by submitting to the Commission at its Washington, DC headquarters, either in electronic or hard-copy form, to be received by the Commission no later than the day prior to the implementation of the rule or rule amendment, a filing that:

(1) Is labeled “Security Futures Product Rule Submission;”

(2) Includes a copy of the new rule or rule amendment;

(3) Includes a certification that the designated contract market or registered derivatives clearing organization has filed the rule or rule amend-

ment with the Securities and Exchange Commission, if such a filing is required;

(4) If the board of trade is a designated contract market pursuant to section 5 of the Act or is a registered derivatives clearing organization pursuant to section 5b of the Act, it includes the documents and certifications required to be filed with the Commission pursuant to §40.6 of this chapter, including a certification that the security futures product complies with the Act and rules thereunder; and

(5) Includes a copy of the submission cover sheet in accordance with the instructions in appendix D of part 40.

(6) Includes a request for confidential treatment as permitted under the procedures of §40.8.

(b) *Voluntary submission of rules for Commission review and approval.* A designated contract market or a registered derivatives clearing organization clearing security futures products may request that the Commission approve any rule or proposed rule or rule amendment relating to a security futures product under the procedures of §40.5 of this chapter, *provided however*, that the registered entity shall include the certifications required by §41.22 with its submission under §40.5 of this chapter. Notice designated contract markets may not request Commission approval of rules.

[66 FR 55083, Nov. 1, 2001, as amended at 69 FR 67507, Nov. 18, 2004; 74 FR 17394, Apr. 15, 2009; 77 FR 66344, Nov. 2, 2012]

§41.25 Additional conditions for trading for security futures products.

(a) *Common provisions—(1) Reporting of data.* The designated contract market shall comply with part 16 of this chapter requiring the daily reporting of market data.

(2) *Regulatory trading halts.* The rules of a designated contract market that lists or trades one or more security futures products must include the following provisions:

(i) Trading of a security futures product based on a single security shall be halted at all times that a regulatory halt has been instituted for the underlying security; and

(ii) Trading of a security futures product based on a narrow-based security index shall be halted at all times that a regulatory halt has been instituted for one or more underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index.

(3) *Speculative position limits.* The designated contract market shall have rules in place establishing position limits or position accountability procedures for the expiring futures contract month. The designated contract market shall:

(i) Adopt a net position limit no greater than 13,500 (100-share) contracts applicable to positions held during the last five trading days of an expiring contract month; except where,

(A) For security futures products where the average daily trading volume in the underlying security exceeds 20 million shares, or exceeds 15 million shares and there are more than 40 million shares of the underlying security outstanding, the designated contract market may adopt a net position limit no greater than 22,500 (100-share) contracts applicable to positions held during the last five trading days of an expiring contract month; or

(B) For security futures products where the average daily trading volume in the underlying security exceeds 20 million shares and there are more than 40 million shares of the underlying security outstanding, the designated contract market may adopt a position accountability rule. Upon request by the designated contract market, traders who hold net positions greater than 22,500 (100-share) contracts, or such lower level specified by exchange rules, must provide information to the exchange and consent to halt increasing their positions when so ordered by the exchange.

(ii) For a security futures product comprised of more than one security, the criteria in paragraphs (a)(3)(i)(A) and (a)(3)(i)(B) of this section must apply to the security in the index with the lowest average daily trading volume.

(iii) Exchanges may approve exemptions from these position limits pursuant to rules that are consistent with §150.3 of this chapter.

(iv) For purposes of this section, average daily trading volume shall be calculated monthly, using data for the most recent six-month period. If the data justify a higher or lower speculative limit for a security future, the designated contract market may raise or lower the position limit for that security future effective no earlier than the day after it has provided notification to the Commission and to the public under the submission requirements of §41.24. If the data require imposition of a reduced position limit for a security future, the designated contract market may permit any trader holding a position in compliance with the previous position limit, but in excess of the reduced limit, to maintain such position through the expiration of the security futures contract; *provided*, that the designated contract market does not find that the position poses a threat to the orderly expiration of such contract.

(b) *Final settlement prices for security futures products.* (1) The final settlement price of a cash-settled security futures product must fairly reflect the opening price of the underlying security or securities;

(2) Notwithstanding paragraph (b)(1) of this section, if an opening price for one or more securities underlying a security futures product is not readily available, the final settlement price of the security futures product shall fairly reflect:

(i) The price of the underlying security or securities during the most recent regular trading session for such security or securities; or

(ii) The next available opening price of the underlying security or securities.

(3) Notwithstanding paragraphs (b)(1) or (b)(2) of this section, if a derivatives clearing organization registered under Section 5b of the Act or a clearing agency exempt from registration pursuant to Section 5b(a)(2) of the Act, to which the final settlement price of a security futures product is or would be reported determines, pursuant to its rules, that such final settlement price is not consistent with the protection of customers and the public interest, taking into account such factors as fairness to buyers and sellers of the affected security futures product, the

maintenance of a fair and orderly market in such security futures product, and consistency of interpretation and practice, the clearing organization shall have the authority to determine, under its rules, a final settlement price for such security futures product.

(c) *Special requirements for physical delivery contracts.* For security futures products settled by actual delivery of the underlying security or securities, payment and delivery of the underlying security or securities must be effected through a clearing agency that is registered pursuant to section 17A of the Securities Exchange Act of 1934.

(d) The Commission may exempt a designated contract market from the provisions of paragraphs (a)(2) and (b) of this section, either unconditionally or on specified terms and conditions, if the Commission determines that such exemption is consistent with the public interest and the protection of customers. An exemption granted pursuant to this paragraph shall not operate as an exemption from any Securities and Exchange Commission rules. Any exemption that may be required from such rules must be obtained separately from the Securities and Exchange Commission.

[66 FR 55083, Nov. 1, 2001, as amended at 67 FR 36761, May 24, 2002; 77 FR 66345, Nov. 2, 2012]

§41.27 Prohibition of dual trading in security futures products by floor brokers.

(a) *Definitions.* For purposes of this section:

(1) Trading session means hours during which a designated contract market is scheduled to trade continuously during a trading day, as set forth in its rules, including any related post settlement trading session. A designated contract market may have more than one trading session during a trading day.

(2) Member shall have the meaning set forth in section 1a(24) of the Act.

(3) Broker association includes two or more designated contract market members with floor trading privileges of whom at least one is acting as a floor broker who:

(i) Engage in floor brokerage activity on behalf of the same employer;

(ii) Have an employer and employee relationship which relates to floor brokerage activity;

(iii) Share profits and losses associated with their brokerage or trading activity; or

(iv) Regularly share a deck of orders.

(4) Customer means an account owner for which a trade is executed other than:

(i) An account in which such floor broker has any interest;

(ii) An account for which a floor broker has discretion;

(iii) An account controlled by a person with whom a floor broker has a relationship through membership in a broker association;

(iv) A house account of the floor broker's clearing member; or

(v) An account for another member present on the floor of a designated contract market or an account controlled by such other member.

(5) Dual trading means the execution of customer orders by a floor broker through open outcry during the same trading session in which the floor broker executes directly or by initiating and passing to another member, either through open outcry or through a trading system that electronically matches bids and offers pursuant to a predetermined algorithm, a transaction for the same security futures product on the same designated contract market for an account described in paragraphs (a)(4)(i) through (v) of this section.

(b) *Dual Trading Prohibition.* (1) No floor broker shall engage in dual trading in a security futures product on a designated contract market, except as otherwise provided under paragraphs (d), (e), and (f) of this section.

(2) A designated contract market operating an electronic market or electronic trading system that provides market participants with a time or place advantage or the ability to override a predetermined algorithm must submit an appropriate rule proposal to the Commission consistent with the procedures set forth in §40.5. The proposed rule must prohibit electronic market participants with a time or place advantage or the ability to override a predetermined algorithm from trading a security futures product for